



## ***Texas Department of Insurance***

### ***Division of Workers' Compensation***

***7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645***

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### ***GENERAL INFORMATION***

#### **Requestor Name and Address:**

BILLY D MCELROY  
1105 NORWOOD DR  
HURST TX 76053

#### **Respondent Name:**

HURST EULESS BEDFORD ISD

#### **Carrier's Austin Representative Box**

Box Number 16

#### **MFDR Tracking Number:**

M4-11-3107-01

### ***REQUESTOR'S POSITION SUMMARY***

**Requestor's Position Summary:** "I am compelled to provide documentation referencing the inept handling of my claim by Sedgwick CMS. Their lack of attention to my claim is [sic] has caused undue personal hardships, financially, relationally, mentally and physically. Due to continual denial, I was forced to use my Major Medical insurance to obtain treatment. I have had spinal surgery consisting of a laminectomy, moro disectomy, and a spinal stimulator implant. I have been certified totally disabled with a diagnosis of Arachnoiditis. My TRS annuity, SSI benefits, and disability insurance are my only income as of this date. My life has changed dramatically, and I am now seeking recover of 'out of pocket' expenses, et al, via Texas Board of Insurance & TWC. I have made repeated and numerous attempts to interact with Sedgwick. Except for maybe twice, every instance has been totally ignored. After I received my TIB's, Sedgwick has ignored my communication attempts. I feel that their inattention to me as a claimant has been arbitrary and capricious. Ignoring me has not been a mistake. After almost 4 years, I have no choice but to feel Sedgwick's 'delay and deny' tactics toward me personally, has been intentional... I understand that claims take a considerable time to resolve. I have gen Sedgwick every opportunity to dialogue with me. 98% of those opportunities have been total ignored. I read in my DWC documentation that communication with the Carrier's Adjustor would be helpful in achieving a resolution. In my case, Sedgwick has proven that is contrary to fact."

**Amount in Dispute:** \$12,046.87

## ***RESPONDENT'S POSITION SUMMARY***

**Respondent's Position Summary:** This dispute should be immediately dismissed as Claimant did not first present his request for reimbursement directly to Respondent for payment or denial prior to filing a request with Medical Fee Dispute Resolution as required by DWC Rules 134.270 and 134.503. Respondent's first receipt of Claimant's request was from Medical Fee Dispute Resolution in the form of the dWC-60. The request included within the DWC-60 was not a proper request pursuant to DWC Rule 133.270.

**Response Submitted by:** Downs-Stanford, PC, 2001 Bryan Street, Ste 4000, Dallas, TX 75201

## ***SUMMARY OF FINDINGS***

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 4, 2009 through April 12, 2010	Out-of-Pocket expenses	\$11,876.87	0.00
June 14, 2010 July 20, 2010 September 21, 2010 December 21, 2010	Out-of-Pocket expenses	\$170.00	\$170.00

## ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for injured employees to pursue a medical fee dispute.
2. 28 Texas Administrative Code §133.270 sets out the procedures for injured employees to submit workers' compensation out-of-pocket for reimbursement.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - The Carrier did not respond to the request for reimbursement from the injured employee. The injured employee submitted a letter, undated, from Sedgwick CMS stating they had received the attached correspondence and could not trace it to any existing claims. The letter also contained, in handwritten form, "Please mail all billings to Sedgwick CMS at the above address – Please reference claim #."

### **Issues**

1. Did the requestor submit the receipt for out-of-pocket expenses to the Carrier in accordance with 28 Texas Administrative Code §133.270?
2. Did the requestor submit the request for medical fee dispute resolution in accordance with 28 Texas Administrative Code §133.307?
3. Is the requestor entitled to reimbursement?

## **Findings**

Pursuant to 28 Texas Administrative Code §133.270 the claimant attempted to send the receipts for the out-of-pocket expenses to the Carrier as referenced by the undated letter injured employee received from Sedgwick CMS asking to "Please mail all billings to Sedgwick CMS at the above address – Please reference claim #." Therefore, the medical fee dispute submitted by the injured employee is eligible for review in accordance with 28 Texas Administrative Code §133.307.

In accordance with 28 Texas Administrative Code §133.307(c)(1)(A) a request for medical fee dispute resolution that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute. Subparagraph (B)(i) states that a request may be filed later than one year after the date(s) of service if a related compensability, extent of injury, or liability dispute under Labor Code Chapter 410 has been filed, the medical fee dispute shall be filed not later than 60 days after the date the requestor receives the final decision, inclusive of all appeals, on compensability, extent of injury, or liability. A Contested Case Hearing was held and it was determined by the Decision and Order signed on July 30, 2009 to be in favor of the injured employee; this decision and order became final on October 29, 2009 by the Appeals Panel. However, the injured employee did not request medical fee dispute resolution within 60 days of when the decision became final. Therefore, dates of service April 4, 2009 through April 12, 2010 were not filed timely and will not be reviewed.

In reviewing the dates of service that are eligible for review, an error was found on the Table of Disputed Services. Date of service June 20, 2010 listed on the table is incorrect and should be listed as July 20, 2010. This was discussed with the injured employee and the date of July 20, 2010 was verified as the date that should have been documented on the table. The injured employee submitted receipts showing payment was made for dates of service June 14, 2010, July 20, 2010, September 21, 2010 and December 21, 2010.

## **Conclusion**

For the reasons stated above, the division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$170.00.

## ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$170.00 reimbursement for the disputed services.

## **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
September 14, 2011  
Date

### ***YOUR RIGHT TO REQUEST AN APPEAL***

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 Texas Administrative Code §148.3(c).